

Application No. 10/751,384
Amendment dated November 30, 2005
Reply to Office Action dated August 25, 2005

REMARKS

Claims 1-19 are at issue. No claims have been allowed.

Applicant notes that the Examiner has withdrawn the rejection of the Office Action dated April 28, 2005 in view of Applicant's response thereto which was filed on July 27, 2005.

The Examiner has rejected claims 1-19 under 35 U.S.C. 102(b) as anticipated by Asbaghi, U.S. Patent 5,688,241.

Asbaghi discloses an automatic non-reusable needle guard 10 and outer cylinder 20 in which inner cylinder 26 is telescopically disposed. Cylinder 26 includes multiple lugs 36a-d formed on the outer surface 38 of inner cylinder 26. Outer cylinder 20 includes track 32 in which lugs 36 slide as best shown in Figure 5. Further, outer cylinder 26 includes flexible flaps 52a, b which are positioned on the outer surface 38 of inner cylinder 26 to prevent the inner cylinder 26 from being retracted once the needle guard is in its fully extended position as shown in Figures 1 and 6c. Flaps 52a, b are carefully distanced from lugs 36a-d to allow just enough room for passage of the flaps 52a, b through the distal end 30 of inner cylinder 26 (see column 4, lines 55-62).

As shown in Figures 1 and 6c, at the end of the operation, the entire length of needle 14 is covered and flaps 52a, b are released, thereby providing a locking function to prevent reuse of the needle device. As clearly seen in Figure 1, flaps 52a, b are now located outside cylinder 20. Further, it is noted that flaps 52a, b are not associated in any way whatsoever with track 32. Flaps 52a, b operate independently of the tracks and, by being released, spring outwardly to prevent inward retraction of inner cylinder 26 into outer cylinder 20 at the end of an injection.

A disadvantage of Asbaghi is that by depressing flexible flaps 52a, b of a used device, inner cylinder 26 could be moved into the hollow body thereby exposing the needle and possibly resulting in needle pricks and possible spread of disease. This is precisely the purpose for which Applicant invented his invention, i.e., to prevent such spread of disease by not permitting exposure of the needle by tampering after an injection.

By contrast to Asbaghi, Applicant, in claim 1, calls for a stop member operatively guidedly associated with the track whereby ... said stop member automatically locks the sleeve

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in the third position upon withdrawal of the needle from the patient. Applicant respectfully submits that Asbaghi does not show a stop member operatively guidedly associated with the track. An obvious advantage of Applicant's construction is that there is no clearance needed between inner cylinder 44 and outer cylinder 20 to permit passage of flexible flaps which then spring outwardly. Such clearances would require special manufacturing tolerances which would be difficult to maintain in a mass produced item. Further, Applicant's device is tamper proof, as opposed to Asbaghi's device.

With respect to claim 12, Applicant has amended that claim whereby it now calls for the flexible finger to be disposed within the hollow body and, upon withdrawal of the needle from the patient, said flexible finger remains disposed within said hollow body and locks the sleeve into said third position. As clearly shown in Asbaghi, the flexible fingers are not disposed within the hollow body upon withdrawal of the needle from the patient. Instead, at that point in time, flexible flaps 52a, b move outside the hollow body.

In view of the above, Applicant respectfully submits that the application is in condition for allowance and respectfully requests allowance thereof.

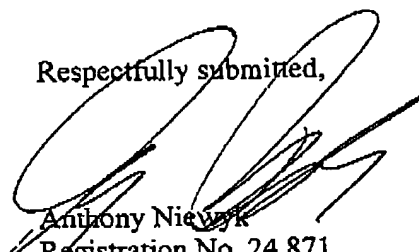
In the event Applicant has overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicant hereby petitions therefore and authorizes that any charges be made to Deposit Account No. 02-0385, Baker & Daniels LLP.

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Should the Examiner have any questions, he is respectfully invited to telephone the undersigned at 260-460-1695.

Respectfully submitted,



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AN/mh

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